

# FAMILY COURT MATTER

## CONTESTED DIVORCE

**This packet contains the following documents:**

*Instructions for Contested Divorce*

*Prehearing Statement*

## Instructions For Filling Out the *Prehearing Statement*

**NOTE:** Fill in the *Prehearing Statement* form **ONLY** if you and your spouse do not reach an agreement on **ALL** of the issues and you must go to trial so the Judge can make a decision on how to settle the issues.

The *Prehearing Statement* gives the court updated information regarding income, employment, property, children and other issues since you filed your *Petition*. Your spouse will also submit a *Prehearing Statement*. The court will schedule a hearing called a “Prehearing Conference.” Unless excused by the court, you must attend the hearing prepared to negotiate a final settlement on all issues. If you do not go to the Prehearing Conference, the court can issue a final divorce decree without considering anything that you have asked for, and can order you to pay your spouse’s attorney’s fees, if any. If you and your spouse cannot reach an agreement at the Prehearing Conference, the court will issue an order identifying the issues about which you disagree, scheduling the trial date, and setting the date by which you and your spouse must exchange your list of exhibits and witnesses to be offered at trial.

The questions asked in the *Prehearing Statement* form are similar to questions asked on other forms you have already filled out. The purpose of this form, however, is to give the court updated information in preparation for trial. To answer the questions asked about you, you should look at your *Petition for Dissolution of Marriage* and any *Application for Temporary Relief* you may have filled out. To answer the questions asked about your spouse, you should look at your spouse’s *Answer and Counter-Petition* and any *Application for Temporary Relief* your spouse may have filled out. The *Application for Temporary Relief* is a separate form.

Fill out the *Prehearing Statement* by following these instructions:

### **FILL IN THE TOP PART OF THE FORM:**

**The information on the top part of the form is the same as on all of the other forms you have filled out.**

- Write in the case number. Write in your full name (Petitioner) and your spouse’s full name (Respondent).
- On the right-hand side of the page, above ***PREHEARING STATEMENT***, check off whether you are the Petitioner or Respondent.

### **FILL IN THE REST OF THE FORM:**

**Note: The following instructions are numbered the same as the paragraphs/questions on the form.**

1. Fill in the personal information about you and your spouse, including:
  - a. Full name,

- b. Present mailing address,
  - c. Employer's name,
  - d. Employer's address,
  - e. Birth date,
  - f. Marriage date,
  - g. The date you and your spouse separated (began living in different houses), if any,
  - h. The date(s) of any temporary orders already issued by the Court in this case,
  - i. The name, birth date and age of each child born of or adopted into your marriage, and with whom each child is now living, if under the age of 18.
  - j. Check YES or NO whether the wife is or is not currently pregnant and, if pregnant, the due date.
  - k. The next question asks whether custody is or is not contested.
    - Check NO if you and your spouse AGREE about who will have legal and physical custody of the child(ren).
    - Check YES if you and your spouse DISAGREE about who will have legal and physical custody of the child(ren). Then, on a separate sheet of paper, write your proposal for custody and visitation for each child. Write "Exhibit A" at the top of the sheet of paper.
2. a. Print the name of your employer and write        in how long you have worked there. Do the same for your spouse. **ATTACH A COPY OF YOUR PAYCHECK STUB(S) FOR AT LEAST THE LAST MONTH AND, IF POSSIBLE, FOR THE LAST THREE MONTHS.**
- b. (1) Write your **GROSS** (before taxes) **MONTHLY** income, then do the same for your spouse. If you are paid one time per month, write the gross monthly amount on the line. If you are paid two times per month (such as on the 1st and 15th of each month), add together those two gross amounts, and write that amount on the line. If you are paid every other week, multiply the gross amount from one paycheck by 26 (the number of times you are paid each year), and write that amount on the line. If you are paid only one time per year, divide that amount by 12 and write that amount on the line.
- (2) Write in amounts deducted from your income, including federal income tax, state income tax, Social Security (FICA) and Medicare, pension deduction, union dues, health/hospitalization coverage for you and your family, and dental coverage for you and your family. Do the same for your spouse.
- (3) Add together all deductions from your income and write that on the line. Do the same for your spouse.
- (4) To figure out your net income, subtract line 3 from line 1. Do the same for your spouse.

- (5) List the type and amount of other deductions from your income (for example: child support). Do the same for your spouse.
- (6) Add together all your “other deductions” and write that on the line. Do the same for your spouse.
- (7) To figure out your net take home pay, subtract line 6 from 4. Do the same for your spouse.
- c. List your tax withholding status. For example: write M-2 if you are married and claim two deductions. Do the same for the other party.
- d. Check YES or NO whether your medical and dental insurance coverage will be available to your spouse after the divorce. If you do not know the answer, call your employer’s employment benefits office and ask whether “COBRA” coverage is available for your spouse.
- e. List any other income you receive. Do the same for your spouse.
- f. List all other employment benefits you receive or expect to receive. Do the same for your spouse.
- 3. a. Check whether YOU pay or receive child support or maintenance (alimony) as a result of a paternity case or your divorce from someone other than your current spouse. If NO, do not write anything for this question. If YES, fill in the amount paid or received each month, the date and county in which the order was issued. Arrearage is any amount that is past due. Check off whether any arrearage exists; and if so, fill in the amount of the arrearage.
- b. Check whether YOUR SPOUSE pays or receives child support or maintenance (alimony) as a result of a paternity case or divorce from someone other than you. If NO, do not write anything for this question. If YES, fill in the amount paid or received each month, the date and county in which the order was issued. Check off whether any arrearage exists; and if so, fill in the amount of the arrearage.
- c. Check whether the judge has issued a temporary order in this case for child support or maintenance (alimony). If NO, do not write anything for this question. If there is a temporary order for child support, check whether you (Respondent) or your spouse (Petitioner) pays child support, fill in the monthly child support amount, and check off whether there is an arrearage, and if so, fill in the amount of arrearage. If there is a temporary order for maintenance, fill in the monthly maintenance amount and check off whether or not there is an arrearage, and if so, fill in the amount of the arrearage.

4. List all of your necessary monthly expenses. List the expenses for your child(ren) if they are separate from yours and if you are responsible for paying those expenses.
5. For any home owned by you and your spouse together, fill in the date the property was purchased, the purchase price, the estimated market value (this can be found on the most recent tax statement), the balance due on any mortgage(s) or loans, the net value of the property (the market value minus the total due on mortgages or loans), the monthly mortgage payment, the name(s) on the title to the property, and the amount of any rental income received (if any). Provide the same information for any other real property (such as a cabin) owned by you alone, your spouse alone, or both of you together. Attach another sheet of paper if you need more room and at the top of the paper write "Exhibit 5A."
6. If you alone (without your spouse) own any of the items listed, fill in the estimated market value. For stocks and bonds, include the stock name and number. For checking and savings account, include the bank name and account number. Do the same for any items owned by your spouse alone (without you). Do the same for any items owned by you and your spouse together.
7. List all items you claim are your non-marital property and include the value of each item. **Non-marital property means:** (1) anything owned before the marriage; (2) anything received as a gift, bequest, devise or inheritance during the marriage; (3) anything that was received in trade or in exchange for non-marital property; (4) anything that is an increase in the value of non-marital property; (5) anything received after the valuation date set by the court; or (6) anything excluded by a valid ante nuptial contract.
8. For each insurance policy owned by you or your spouse, list the name of the insurance company, the policy number, the type of insurance, the face amount, the cash value, the balance due on any loans, the name of the insured, the name(s) of the beneficiary(ies), and the owner(s).
9. Fill in the value and other information regarding any pension, profit sharing, IRA g, Keogh, deferred compensation, or other plan owned by you. Fill in the same information for any such plans owned by your spouse.
10. List all secured and unsecured debts (**do not** list any debts already included in paragraphs/questions 4 or 5, such as loans for cars or houses):
  - a. A secured debt is one for which you have pledged collateral. List all secured debts owed by you alone (without your spouse), including the name of the creditor, the balance due, the monthly payment, the date the debt began, who owes the debt, and the reason for the debt. Do the same for any secured debts owed by your spouse alone (without you). Fill in the same information for any secured debts owed by you and your spouse together. Attach another sheet of paper if you need more room and at the top of the paper write "Exhibit 10A."

- b. Examples of unsecured debts include the phone bill, water bill, credit card bills, and school loans, and other bills. On a separate sheet of paper list all of the unsecured debts owed by you and/or your spouse, including the name of the creditor, the balance due, the monthly payment, and who owes the debt. At the top of the paper write, "Exhibit 10B." Add up the total owed for you alone, your spouse alone, and the two of you together, and write those amounts on the lines for paragraph/question 10(b).
- **SIGN AND DATE THE FORM. IF YOU HAVE AN ATTORNEY, HAVE THE ATTORNEY SIGN IT AND FILL IN THE ATTORNEY'S ADDRESS, PHONE AND ATTORNEY IDENTIFICATION NUMBER.**
  - **MAKE TWO COPIES OF THE *PREHEARING STATEMENT*. KEEP ONE COPY FOR YOUR RECORDS.**
  - **MAKE SURE THAT YOU MAIL OR HAND-DELIVER THE SECOND COPY OF THE *PREHEARING STATEMENT* TO YOUR SPOUSE AND THE ORIGINAL *PREHEARING STATEMENT* TO THE COURT BY THE DEADLINE SET BY THE COURT.**
  - **ATTEND THE PREHEARING CONFERENCE PREPARED TO SETTLE AS MANY ISSUES AS POSSIBLE.**

**IF ALL ISSUES ARE NOT SETTLED AT THE PRETRIAL HEARING, THE COURT**